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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/645,554	08/25/2000	Karl Vogel	PM 271649	3282

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EXAMINER
HENDRICKSON, STUART L

ART UNIT	PAPER NUMBER
1754	

DATE MAILED: 05/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

MF=6

Office Action Summary

Application No.	Applicant(s)
645554	Vogel
Examiner	**Group Art Unit**
Hamilton	1754

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 4/8/02.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-5 is/are pending in the application.

Of the above claim(s) 24 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1,5 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claim(s) 1-5 are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)–(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)–(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO–1449, Paper No(s). _____

☒ Notice of Reference(s) Cited, PTO–892

☐ Notice of Draftsperson's Patent Drawing Review, PTO–948

☐ Interview Summary, PTO–413

☐ Notice of Informal Patent Application, PTO–152

☐ Other _____

Office Action Summary

The election of claims 1 and 5 without traverse is noted. Claims 2-4 are withdrawn from consideration.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Takaoka et al.

The reference teaches in column 3 line 30 a carbon black having H content of 6000 ppm. Also noted is the desire for a lack of immovable pi electrons. Since aromatic/ring carbons have freely moving, conjugated pi electrons (the very definition of aromatic), this is a defacto teaching of a high level of aromatic carbons. Therefore, the claimed ratio is deemed met.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takaoka et al. The reference, supra, does not teach use in catalysts, the high pi structure is indicative of electron mobility and thus makes an effective electrolytic material. Thus, using the carbon in an electrode system is an obvious expedient to exploit its properties.

Claim 1 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gerspacher.

The reference teaches in column 4 carbon black with 5000 ppm of hydrogen. The high crystallite content and the teaching that this translates into high sp2 bonding means that there is high aromaticity/planarization. Thus, the claimed ratio appears possessed.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gerspacher. The reference, supra, does not teach use in catalysts, the conjugated electron structure is indicative of electron mobility and thus makes an effective electrolytic material. Thus, using the carbon in an electrode system is an obvious expedient to exploit its properties.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (703) 308-2539.

Stuart Hendrickson
examiner Art Unit 1754